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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/619,722      | 07/15/2003  | Thomas Allan Barber  | PT0060 US NA        | 7135             |

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E I DU PONT DE NEMOURS AND COMPANY  
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WILMINGTON, DE 19805

EXAMINER

COONEY, JOHN M

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

1711

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/619,722

Applicant(s)

BARBER ET AL.

Examiner

John m Cooney

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 7,8,14,15 and 26-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,9-13 and 16-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>0104</u> . | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

Claims 7,8,14,15, and 26-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10-26-04.

Applicant's election with traverse of Group I (claims 1-6, 9-13, and 16-25) in the reply filed on 10-26-04 is acknowledged. The traversal is on the ground(s) that the inventions are not distinct or properly restricted. This is not found persuasive because the claims are maintained to be distinct for the reasons set forth in the original restriction requirement and applicants' recitation of the MPEP does not refute the holding of restriction for the claims. Any rejoinder of appropriate process of use claims will be determined at time of allowance.

The requirement is still deemed proper and is therefore made FINAL.

This application contains claims 7,8,14,15, and 26-29 are drawn to an invention nonelected with traverse in Paper No. 1004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 9-13, and 16-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Barda (4,468,480).

Barda discloses preparations of aromatic polyester polyol compositions having acid numbers of below 3 mg/KOH/g, wherein said polyols are prepared from acid components, glycol components, and species inclusive of the non-alkoxylated aminoalcohols (i.e. trialkanolamine) and the functionality enhancing components of the claims (see the entire document). The blowing effect features set forth by applicants' claims are held to be inherent features owing to the similarities of the materials defined.

Claims 1-6, 9-13, and 16-25 are rejected under 35 U.S.C. 102(b) as being anticipated by GB-1,592,534.

GB-1,592,534 discloses preparations of aromatic polyester polyol compositions having acid numbers of below 3 mg/KOH/g, wherein said polyols are prepared from acid components, glycol components, and species inclusive of

the non-alkoxylated aminoalcohols and the functionality enhancing components of the claims (see the entire document). The blowing effect features set forth by applicants' claims are held to be inherent features owing to the similarities of the materials defined.

Claims 1-6, 9-13, and 16-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Muller et al. (2,788,332).

Muller et al. discloses preparations of aromatic polyester polyol compositions having acid numbers of below 3 mg/KOH/g, wherein said polyols are prepared from acid components, glycol components, and species inclusive of the non-alkoxylated aminoalcohols (i.e. trialkanolamine) and additional materials and accelerators reading on the materials of applicants' claims (see the entire document). The blowing effect features set forth by applicants' claims are held to be inherent features owing to the similarities of the materials defined.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Cooney whose telephone number is 571-272-1070. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JOHN M. COONEY, JR.  
PRIMARY EXAMINER  
Group 1700